

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER

☐

DATE

November 30, 2011

MOTOR CARRIER MATTER

☐

DOCKET NO.

2011-158-E

UTILITIES MATTER

☒

ORDER NO.

2011-878

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

SUBJECT:

DOCKET NO. 2011-158-E - Application Regarding the Acquisition of Progress Energy, Incorporated by Duke Energy Corporation and Merger of Progress Energy Carolinas, Incorporated and Duke Energy Carolinas, LLC - Discuss with the Commission the Motion for Local Counsel To Be Excused from Attending the Hearing Filed on Behalf of the City of Orangeburg, South Carolina.

COMMISSION ACTION:

South Carolina Appellate Court Rule 404(f) addresses the responsibilities of local counsel for attorneys appearing Pro Hac Vice. According to the Rule, unless a tribunal specifically excuses the South Carolina attorney of record from attendance, the South Carolina attorney of record shall at all times be prepared to go forward with the case and attend "all subsequent proceedings in the matter." The request before us is to completely excuse the local counsel from his responsibility to be present at the hearing, although, the motion does state that local counsel would be available by telephone and could travel at late notice to appear before the Commission if his presence becomes necessary. A particular difficulty with the local counsel's proposal is that "local counsel" actually resides in Washington, DC, making any commitment to "appear before the Commission if his presence becomes necessary" problematic.

Past practice before the Commission has typically involved the attendance of local counsel. The only exception that I am aware of – a 2009 rate case for SCE&G – involved a request of the Navy to have local counsel to appear the first day of the hearing and then be excused, subject to being called back on short notice. This was apparently done to make sure all was in order for the attorney the local counsel had sponsored pro hac vice, and it is consistent with the Rule's requirement to "attend all subsequent proceedings in the matter, unless the tribunal specifically excuses the South Carolina attorney of record from attendance."

Considering the duties our state rules place upon local counsel, I move that local counsel for the City of Orangeburg be required to appear the first day of the hearing and then may move to be excused, subject to being called back on short notice.

PRESIDING: HowardSESSION: RegularTIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HALL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

WHITFIELD ☐ ☒ ☐

WRIGHT ☐ ☐ ☐

Absent

Testifying before Congress in Washington, DC

(SEAL)

RECORDED BY: J. Schmieding

